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Attorneys for Plaintiff,
ARNIE BARN, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ARNIE BARN, INC.,
Plaintiff,

v.

JOHN DOES 1-5, JANE DOES 1-4 AND
XYZ COMPANY,
Defendants.

) Case No. CV 08-3375 ABC
) (CTx)

) PRELIMINARY INJUNCTION
) AND ORDER OF SEIZURE

Plaintiff Arnie Barn, Inc. ("Plaintiff") having moved for a Preliminary Injunction enjoining and restraining the defendants from manufacturing, selling or distributing merchandise bearing the trademarks servicemarks, logos, likenesses or images of the musical artist "**KENNY CHESNEY**" (the "Artist") and ordering the seizure and impounding of such articles; and service having been effected upon certain defendants at the Artist's concerts which have previously occurred; and Plaintiff's application having come on for a hearing before the Honorable Audrey B. Collins on the 6th day of June, 2008, at the United States Courthouse in the Central District of California, and Plaintiff having appeared by its attorneys, and there having been no other appearances;

1 Now, on presentation and consideration of Plaintiff's application for a
2 preliminary injunction and order of seizure, the declaration in support thereof and all
3 other pleadings and prior proceedings heretofore had herein in this matter, the Court
4 hereby finds:

5 1. By reason of the substantial and continuous use of the federally
6 registered trademarks, servicemarks, logos, likenesses or images of the Artist in
7 connection with his work as a musical performer, said marks have acquired meanings
8 identified with the Artist and with products and services associated with him;

9 2. The served defendants, and those in active concert or participation with
10 such defendants, have infringed upon Plaintiff's rights in the Artist's trademarks,
11 servicemarks, logos, likenesses, or images owned and/or controlled by Plaintiff, and
12 have as well committed acts of unfair competition against Plaintiff herein by
13 manufacturing, distributing, offering for sale and selling merchandise bearing any or
14 all of the trademarks, servicemarks, logos, likenesses, and images of the Artist at or
15 near the sites of the Artist's concerts, without having obtained a license or any other
16 authorization to do so, as alleged in the complaint;

17 3. The acts of the defendants, and those in active concert or participation
18 with them, constitute a violation of the United States Trademark Act in that they: a).
19 involve goods or services, b) are activities which affect interstate commerce, and c)
20 infringe the trademark and/or bear a false designation of the source or origin of such
21 goods or are likely to cause confusion, mistake or deception as to the affiliation,
22 connection, association, sponsorship or approval of Plaintiff and/or the Artist with
23 respect to such goods;

24 4. Defendants, and those in active concert or participation with them, will
25 continue to sell such unauthorized merchandise unless enjoined by the Court; and

26 5. Copies of this Court's Order to Show Cause On Motion For Preliminary
27 Injunction with A Temporary Restraining and Seizure Order, and the Complaint
28 filed in support of Plaintiff's application in this case have been served upon the

1 defendants and unauthorized, "bootleg" merchandise has been seized from the
2 defendants;

3 **NOW, THEREFORE, IT IS HEREBY**

4 **ORDERED**, that the defendants, their agents, servants, employees, attorneys,
5 successors, and assigns, and all persons, firms, and corporations acting in active
6 concert or participation with said defendants, are enjoined and restrained from:

7 (A) Using any or all of the federally registered trademarks, servicemarks,
8 logos, likenesses, or images of the Artist, in connection with the sale, offering for
9 sale, distribution, and/or advertising of any clothing or other merchandise;

10 (B) Manufacturing, distributing, selling, and/or holding for sale any
11 clothing or other merchandise which carries or otherwise uses any or all of the
12 federally registered trademarks, servicemarks, logos, likenesses, or images of the
13 Artist; or

14 (c) Aiding, abetting, inducing, or encouraging another to perform any of
15 the acts enjoined herein.

16 **IT IS FURTHER ORDERED**, that the U.S. Marshal for this district or for
17 any district in which Plaintiff seeks to enforce this Order in the United States, the
18 state police, local police, local deputy sheriffs, off-duty officers of the same, and any
19 person acting under their supervision (collectively "Process Servers"), are hereby
20 similarly authorized to seize and impound any and all unauthorized merchandise
21 bearing any or all of the federally registered trademarks, servicemarks, logos,
22 likenesses, or images of the artist "**KENNY CHESNEY**" or any colorable
23 imitations or variations thereof, or associated marks which defendants or their
24 agents, employees or representatives attempt to sell or are holding for sale in the
25 vicinity of any of the Artist's concerts from six (6) hours before to six (6) hours after
26 any performance of the Artist within a ten (10) mile vicinity of the halls, stadiums or
27 arenas at which the Artist shall be performing or elsewhere where such merchandise
28 is being sold, held for sale or is otherwise found, including in any carton, bag,

1 vehicle, or container in which the merchandise is transported or stored. All clothing,
2 jewelry, photographs, posters and other merchandise bearing any or all of the
3 trademarks, servicemarks, logos, likenesses, or images of the Artist, or any colorable
4 imitations or variations thereof, sold and held for sale in the vicinity of the arenas or
5 other venues at which the Artist shall be performing, or elsewhere where such
6 merchandise is being sold, held for sale or otherwise found, shall be deemed to be
7 merchandise subject to the seizure provisions of this Order.

8 **IT IS FURTHER ORDERED**, that service of a copy of this Order, together
9 with the Summons and Complaint, be made upon defendants by the Process Servers
10 at the time the seizure provided herein is effected, and that such service shall be
11 deemed good and sufficient.

12 **IT IS FURTHER ORDERED**, that each and every defendant served with a
13 copy of this order promptly, courteously and peaceably identify himself or herself to
14 the aforementioned Process Server and that the Process Server or agents for Plaintiff
15 be allowed to photograph, videotape or otherwise identify the defendant.

16 **IT IS FURTHER ORDERED**, that the Process Server shall offer a receipt to
17 each person from whom goods are seized.

18 **IT IS FURTHER ORDERED**, that any Defendant who is hereafter served
19 with a copy of this Order who objects to the provisions herein may submit his or her
20 objections to this Court or otherwise move for relief from this Court within ten (10)
21 days of the date of seizure according to the Federal Rules of Civil Procedure, but no
22 such objection shall serve to suspend this Order or stay the terms hereof unless
23 otherwise ordered by this Court.

24 **IT IS FURTHER ORDERED**, that all unauthorized items heretofore or
25 hereafter seized in this action be delivered up to the Plaintiff or the persons
26 designated above, pending final disposition of this matter.

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1 **IT IS FURTHER ORDERED**, that the bond heretofore deposited with the
2 Clerk of this Court to secure payment of costs incurred in enforcing the provisions
3 of the temporary restraining order and any damages sustained by any party who is
4 found to have been wrongfully enjoined thereby is hereby continued until final
5 disposition of this matter.

6 **IT IS SO ORDERED.**

Audrey B. Collins

7 Dated: June 6, 2008

8 At: 10:05 a. m.

THE HONORABLE AUDREY B. COLLINS
UNITED STATES DISTRICT COURT

9 Presented By:

10 _____
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